

bags being supplied on a conveying surface. Claim 1 has been amended herein to eliminate the objectionable phrase. Claim 6 is an independent claim and does not include this objectionable phrase. Claim 6 has not been amended herein in response to this rejection. In view of the foregoing, the applicants believe that the rejection is overcome.

Claim Rejections - 35 U.S.C. §102

Claims 1-6 have again been rejected under 35 U.S.C. §102(b) as anticipated by Geyssel, U.S. Patent No. 4,584,046 (Geyssel). The applicants traverse the anticipation rejection based on the following grounds.

Independent claim 1 specifically recites that "the stand up bag lies on a *side surface resting on the conveyor surface* that is *generally opposite said receiving surface*." The receiving surface in claim 1 is the surface to which the straw is applied. Claim 5 specifically recites that "each of the stand up bags is conveyed having one of the *opposite side surfaces resting on the conveyor surface*, and wherein a drinking straw is *applied to the other of the opposite side surfaces* of each of the stand up bags." Claim 6 similarly recites that "each of the stand up bags is conveyed having *one of the opposite non-planner side surfaces resting on the conveyor surface*, and wherein a drinking straw is *applied to the other of the opposite non-planner side surfaces* of each of the stand up bags."

Claim 1 has been amended herein to clarify which surface rests on the conveyor. Claims 5 and 6 have been amended herein to recite an apparatus wherein the stand up bags and straws are recited as positive limitations of the apparatus.

As stated in prior papers, an anticipation rejection requires that the cited reference teach each of every aspect of a rejected claim. Geyssel neither explicitly, inherently, nor impliedly teaches all of the limitations of independent claims 1, 5, and 6. However, the Office continues to maintain that Geyssel somehow teaches stand up bags that lie with a side surface that rests on the conveying surface, and that drinking straws are applied to receiving *surfaces* that are opposite the side that rests on the conveyor. The Office continues to refer to Fig. 9 of Geyssel in support of the rejection.

To the contrary, even a cursory review of Fig. 9 reveals that the containers 12 in Geyssel have a bottom surface that rests on the conveyor surface 13. Thus, the containers 12 in Geyssel are standing up. The Geyssel containers are not lying down on a side surface, as is recited in the claims. The surface that would be *opposite* the bottom surface of the containers 12 in Geyssel is the top surface, not one of the side surfaces. Further, the drinking straws 11

are applied to a side surface, not the surface (top surface) that is opposite the surface (bottom surface) which rest on the conveyor surface 13.

Thus, Geyssel clearly fails to disclose or even suggest at least two limitations of each rejected claim. Geyssel does not disclose a container lying down on a side surface. Nor does Geyssel disclose applying drinking straws to a surface that is opposite the one on which the containers rest.

The applicants do not understand how Fig. 9 of Geyssel teaches that which is recited in claim 1, 5, and 6. Geyssel Fig. 9 shows a straw being applied to a generally vertically orientated side surface of a container 12, and shows that the *opposite side surface* is also generally vertically orientated and not resting on the conveyor surface 13. Neither of the side surfaces of the container 12 is resting on the conveyor surface 13. Further, the straws in Geyssel are not applied to a side opposite to the surface (bottom) that rests on the conveyor surface 13. Geyssel simply fails to disclose the apparatus configurations recited in claims 1, 5, and 6.

Claims 1, 5, and 6, and the corresponding dependent claims 2-4, are neither anticipated or rendered obvious by the Geyssel disclosure. The rejection of claims 1-6 should be withdrawn. Reconsideration and withdrawal of the rejection are hereby respectfully solicited.

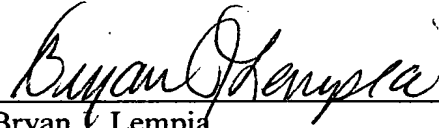
CONCLUSION

Claims 1-6 are in condition for allowance in view of the foregoing amendments and the following remarks. Reconsideration and withdrawal of the rejections are hereby respectfully solicited.

The examiner is invited to contact the undersigned at the telephone number listed below in order to discuss any remaining issues or matters of form that will place this case in condition for allowance.

No fee is believed due at this time. However, the Commissioner is hereby authorized to charge any fee deficiency, or to credit any overpayments, to Deposit Account No. 13-2855 of the undersigned's firm.

Respectfully submitted,

A handwritten signature in cursive script, reading "Bryan J. Lempia", written over a horizontal line.

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In the Claims

VERSION SHOWING CHANGES MADE

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Please amend claims 1, 5, and 6 as follows:

1. (Three Times Amended) In an apparatus for applying a drinking straw to a receiving surface of a stand up bag which [can be] is supplied on a conveying surface to a transfer means for drinking straws, the improvement comprising that the stand up bag lies with a side surface resting on the conveyor surface that is generally opposite said receiving surface (3a) [resting on the conveyor surface] and that said transfer means (5) is arranged such that the drinking straw (2) while being handed over encloses an acute angle (α) with the conveying surface (4a).

5. (Amended) An apparatus for applying drinking straws to receiving surfaces of stand up bags, the apparatus comprising:

stand up bags having a bottom surface, a top end, and at least two opposite side surfaces interconnecting the bottom surface and the top end[, the apparatus comprising:];

a supply of drinking straws;

a conveyor surface for conveying the stand up bags; and

a transfer means constructed and arranged for transferring the drinking straws onto the stand up bags,

wherein each of the stand up bags is conveyed having one of the opposite side surfaces resting on the conveyor surface, and wherein a drinking straw is applied to the other of the opposite side surfaces of each of the stand up bags.

6. (Amended) An apparatus for applying drinking straws to receiving surfaces of stand up bags, the apparatus comprising:

stand up bags having a bottom surface, a top end formed by a sealing line closing a filling opening, and at least two opposite non-planar side surfaces interconnecting the bottom surface and the top end and forming an angle of less than 45°[, the apparatus comprising:];

a supply of drinking straws;

a conveyor surface for conveying the stand up bags; and

a transfer means constructed and arranged for transferring the drinking straws onto the stand up bags,

wherein each of the stand up bags is conveyed having one of the opposite non-planar side surfaces resting on the conveyor surface, and wherein a drinking straw is applied to the other of the opposite non-planar side surfaces of each of the stand up bags.